

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FRANCISCO MIRANDA, an individual,

Plaintiff,

v.

ALASKA LONGLINE, LLC, OCEAN  
PROWLER, LLC and PROWLER FISHERIES,  
INC.

Defendants.

No. 2:15-cv-00148 TSZ

FIRST AMENDED COMPLAINT FOR  
DAMAGES

## I. NATURE OF THE ACTION

1. This is an action for declaratory judgment, equitable relief, and monetary damages, instituted to secure the protection of and redress the deprivation of rights secured through the Washington Law Against Discrimination, RCW 49.60, *et seq.* (“WLAD”), Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000(e), *et seq.* (“Title VII”), and 42 U.S.C. § 1981, *et seq.* (“Section 1981”). Plaintiff Francisco Miranda alleges that Defendants Alaska Longline, LLC, Ocean Prowler, LLC, and Prowler Fisheries, Inc. (collectively, “Defendants”) subjected him to harassment and discrimination on the basis of his race (Hispanic) and national origin (Mexican). Plaintiff alleges that these actions by Defendants violate WLAD, Title VII and Section 1981.

2. Plaintiff also alleges that Defendants retaliated against him for opposing the harassment and discrimination, and took adverse actions against him, including ultimately terminating his employment because of his race (Hispanic) and national origin (Mexican). Plaintiff alleges that these actions by Defendants violate WLAD and Section 1981.

3. Plaintiff seeks monetary and injunctive relief from Defendants, including relief for pecuniary and non-pecuniary damages, compensatory damages, and punitive damages to the fullest extent authorized by law.

4. Plaintiff filed a charge with the Equal Employment Opportunity Commission (“EEOC”). The EEOC found reasonable cause to believe that Defendants subjected Plaintiff to an illegal hostile work environment, which included harassment on the basis of his national origin, repeated racial slurs and derogatory comments about Hispanics, and failure to take proper steps to stop the harassing conduct, in violation of Title VII. The EEOC sent Plaintiff a right-to-sue letter on June 3, 2015, and therefore Plaintiff has exhausted the administrative procedure set out in the relevant federal statutes.

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## II. JURISDICTION, VENUE AND PARTIES

5. This Court has jurisdiction pursuant to RCW 2.08.010 because Plaintiff requests relief exceeding \$300.00.

6. At all times relevant to this complaint, one or more of Defendants conducted business in the State of Washington.

7. At all relevant times, Defendants were employers engaged in an industry affecting commerce.

8. One or more of Defendants has continually had the requisite number of employees for jurisdiction.

9. At all relevant times, one or more of Defendants was an employer within the meaning of RCW 49.60 *et seq.* Defendants owned and/or operated the fishing vessel F/V Ocean Prowler, official number 632751. Defendants employed Plaintiff to work as a seaman on F/V Ocean Prowler.

10. Venue is proper because Defendants were continuously doing business in King County, Washington and employed Plaintiff in King County, Washington.

11. This Court has jurisdiction over claims brought under Section 1981. *DeHorney v. Bank of America Nat. Trust and Sav. Ass'n*, 879 F.2d 459, 463 (9th Cir. 1989).

12. Plaintiff Miranda filed a charge with the Equal Employment Opportunity Commission ("EEOC") on March 15, 2012, alleging Defendants violated Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e, *et seq.* ("Title VII").

13. On December 31, 2013, the EEOC found reasonable cause to believe that Defendants subjected Plaintiff Miranda to an illegal hostile work environment, which included harassment on the basis of his national origin, repeated racial slurs and derogatory comments about Hispanics, and failure to take remedial measures.

1           14.     On June 3, 2015, the EEOC issued Mr. Miranda the right to pursue his Title VII  
2 claims in court. Therefore, Plaintiff has amended his complaint to add a claim that Defendant  
3 subjected him to an illegal hostile work environment and harassment on the basis of his race  
4 and national origin under Title VII.-

5                           **III.     STATEMENT OF CLAIMS**

6           15.     Paragraphs 1 through 14 are re-alleged and hereby incorporated by reference.

7           16.     Defendants engaged in unlawful employment practices against Plaintiff while  
8 he was employed with Defendants in deprivation and interference with his rights under  
9 WLAD, Title VII and Section 1981.

10          17.     Defendants subjected Plaintiff to severe and pervasive harassment on the basis  
11 of his race (Hispanic) and national origin (Mexican) in violation of WLAD, Title VII and  
12 Section 1981.

13          18.     Defendants subjected Plaintiff to severe and pervasive discrimination on the  
14 basis of his race (Hispanic) and national origin (Mexican) in violation of WLAD and Section  
15 1981.

16          19.     Plaintiff opposed race and national origin harassment and discrimination and  
17 engaged in protected activity.

18          20.     Defendants took adverse employment actions against Plaintiff Miranda,  
19 including but not limited to, discriminatorily and/or retaliatorily denying him promotions, and  
20 ultimately terminating his employment, in violation of WLAD and Section 1981.

21          21.     Defendants' adverse employment actions were motivated by Plaintiff's race  
22 (Hispanic), his national origin (Mexican), and his opposition to Defendant's discriminatory  
23 conduct.

24          22.     Defendants had knowledge of numerous incidents of race and national origin  
25 harassment and Defendants failed to take prompt and effective remedial measures to stop or  
26 prevent them, in violation of WLAD, Title VII and Section 1981.

1           23.     Other similarly-situated employees suffered discrimination, harassment and  
2 retaliation.

3           24.     Defendants acted maliciously, and in reckless disregard for Mr. Miranda's  
4 rights under the law.

5           25.     The unlawful employment practices complained of above were intentional.

6           26.     The effect of the practices complained of in the above paragraphs has been to  
7 deprive Plaintiff of equal employment opportunities and otherwise adversely affect his status  
8 as an employee because of his race, national origin and opposition to Defendants' unlawful  
9 activities.

#### 10                               **IV.     PRAYER FOR RELIEF**

11       Wherefore, Plaintiff respectfully requests that this court:

12       A.     Grant a permanent injunction enjoining Defendants from engaging in any other  
13 unlawful employment practices.

14       B.     Order Defendants to institute and carry out policies, practices, and programs  
15 which eradicate the effects of its past and present unlawful employment practices.

16       C.     Order Defendants to make Plaintiff whole by providing appropriate back pay  
17 with prejudgment interest, in amounts to be determined at trial, and other affirmative relief  
18 necessary to eradicate the effects of its unlawful employment practices.

19       D.     Order Defendants to make Plaintiff whole by providing compensation for past  
20 and future pecuniary losses resulting from the acts complained of in the above paragraphs,  
21 including out-of-pocket expenses, in amounts to be determined at trial.

22       E.     Order Defendants to make Plaintiff whole by providing compensation for past  
23 and future non-pecuniary losses resulting from the acts complained of in the above paragraphs,  
24 including without limitation, emotional pain, suffering, distress, and loss of enjoyment of life,  
25 in amounts to be determined at trial.  
26

1 F. Order Defendant to pay Plaintiff punitive damages for the conduct described in  
2 the above paragraphs, in amounts to be determined at trial, to the fullest extent allowed by law.

3 G. Order Defendant to pay Plaintiff for any and all tax consequences associated  
4 with the damages and cost award, including but not limited to attorney's fees.

5 H. Award Plaintiff the costs of this action, including attorney's fees, expert fees,  
6 and all other costs to the fullest extent allowed by law.

7 I. Award Plaintiffs other damages including prejudgment interest and post-  
8 judgment interest.

9 J. Grant any additional or further relief as provided by law, which this Court find  
10 appropriate, equitable, or just.

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14 DATED this 1st day of September, 2015.

15 THE BLANKENSHIP LAW FIRM, P.S.

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**CERTIFICATE OF SERVICE**

The undersigned hereby declares under penalty of perjury under the laws of the State of Washington that, on the below date, I mailed or caused delivery and/or electronically filed a true copy of this document, which will send notification of such filing, to the following persons:

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DATED this 1st day of September, 2015, at Seattle, Washington.

s/ Scott C. G. Blankenship

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